

City of Gig Harbor Planning Commission
Work Study Session
July 1, 2010
Planning & Building Conference Room
4:00 pm

PRESENT: Commissioners – Chair Joyce Ninen, Harris Atkins, Jim Pasin, Jill Guernsey, Michael Fisher, Bill Coughlin and Ben Coronado.

STAFF PRESENT: Kim Van Zwalenburg, Jenn Kester and Pete Katich.

CALL TO ORDER: at 4:00 pm

APPROVAL OF MINUTES: Minutes of 6/24/10. Mr. Atkins noted that on page one it stated that Mr. Pasin felt when he was absent from the meeting, it should say Mr. Atkins. Page five second paragraph, where it said Mr. Atkins suggested and Mr. Atkins felt that it should say, “objectives” rather than incentives. Page four should address the removal of noxious weeds, rather than weeks. Ms. Kester said should add and go with the language already in the design manual, Ms. Ninen said she had already made that correction. Ms. Ninen noted that the meeting outcomes are getting rather large and suggested that just the last meeting summary should be appended to the minutes. Atkins/Coronado – minutes approved.

Discussion was held on the newly purchased marine pier and associated parking. Mr. Katich gave an overview of the project.

Mr. Fisher wanted to follow up on the issue of conservation easements from the last meeting. Mr. Katich said that he had not found a requirement in the guidelines and only found a jurisdiction who had a notice on title requirement and one who had an easement requirement and nobody had a dedicated set aside. Mr. Fisher expressed that he wondered why we had it at all. Mr. Katich expressed that it was an approach to assure that the area was protected.

Motion: Move that number four be struck in its entirety and page 6-28 item c the last portion of it be struck in its entirety. Motion died for lack of a second.

Mr. Coughlin asked then how did Mr. Fisher propose that we protect that area. Mr. Pasin asked where is the damage. Mr. Atkins and Mr. Coughlin both stated that Gig Harbor Bay is polluted and is currently closed for shellfish. Mr. Katich stated that we don't have a requirement for vegetated buffers so we don't have a regulation right now for how to protect it. Ms. Guernsey clarified that this is a step that conditions placed on a permit are carried out and Mr. Katich stated that it won't be a condition because it will be a requirement. He stated that the real value in having something on the title is to notify new owners. Ms. Guernsey explained the difference between an easement and title notification. Ms. Guernsey proposed where a vegetation conservation area is approved as part of a development proposal approving the vegetation conservation area will be recorded along with title notification. **It was decided to use the**

current code language 18-20 number 2 that is used for wetlands. Mr. Katich clarified that staff will use 18.08.080.B.2 as a model. Also on regulation 6.8.2 number 3.c conservation easement or similar mechanism in the last sentence will be deleted.

Matrix

Shoreline modifications:

Mr. Atkins noted that dune modifications are marked as not applicable however it is prohibited. It was decided that it should remain in the matrix along with structural flood hazard reductions and just be marked as not applicable. **Mr. Katich commented that dredging for shoreline restoration purposes only should be allowed in natural and low intensity as well as the urban conservancy. Consensus was reached.** Mr. Pasin asked why you would want to allow it in a natural environment and Mr. Katich explained that there could be contaminated sediments.

Ms. Guernsey pointed out that under fill and excavation there is an X under marine deepwater and it should be not applicable and everyone agreed.

Ms. Ninen noted that they had not finalized shoreline stabilization and it is still in the holding pen. Ms. Guernsey asked about pedestrian beach access and what was meant by private access. Ms. Ninen stated that she thought that the structures required a conditional use permit rather than just being permitted. Ms. VanZwalenburg stated that she had notes that it had been put in the holding pen. She stated that she did have issues with this section. Ms. Kester agreed that 7.14 was in the holding pen along with language for 6.4.

Shoreline uses:

Mr. Katich noted that aquaculture was in the holding pen and they were hoping to use language from the county regulations when they are complete. Mr. Katich also asked Ms. Van Zwalenburg about the rule update on aquaculture and she stated that there will be hearings in September and it may be effective in January.

Mr. Katich said that under commercial uses in city waterfront he wasn't sure it was consistent with pages 7-26, 27 and 28. Ms. Van Zwalenburg also noted that 7.6 Commercial was in the holding pen. Mr. Katich reminded everyone that they had discussed providing some incentives for allowing additional commercial uses if restoration is done. Mr. Fisher noted that they had gotten in a discussion about Purdy when they had discussed shoreline use in Chapter 6. He noted that Coupeville doesn't limit uses to water oriented. He noted that Purdy does not have water oriented uses and it would hurt the Key Peninsula if those retail businesses went away. Mr. Atkins pointed out that they had changed language to reflect that. Ms. Kester acknowledged that the matrix needed to match 6 and 7 and that was in the holding pen. Mr. Fisher expressed that he didn't think it was up to the commission to decide what type of business should go where. Mr. Atkins clarified that Mr. Fishers concern was that under low intensity commercial use was classified as a conditional use. He asked if anyone knew what

Pierce County was doing and no one knew. He suggested that when they find out what the County is doing we do that.

Mr. Pasin asked why we would allow commercial fishing vessels in low intensity and it was noted that they are already there. Ms. Guernsey noted that on page 7-23 under commercial fishing moorage it stated that they are exempt from parking and then on 7-24 she noted that they had struck number 2 to let them moor where they wanted. Ms. Guernsey asked if they should indicate that they are talking about moorage of commercial fishing vessels should we specify that in the matrix. **Mr. Katich suggested that there should be another category for moorage, one for commercial fishing and moorage and one for commercial fishing sales and services. Fishing moorage would be permitted in low intensity, city waterfront and marine deepwater and not permitted in natural and urban conservancy. Commercial fishing sales and service would be permitted in city waterfront and marine deepwater and not permitted in natural urban conservancy and low intensity. Ms. Ninen noted that she would add the page reference of 7-23. Everyone agreed to the changes.**

Educational Facilities - Ms. Ninen mentioned to Ms. Kester that there would need to be a zoning code change for the educational facilities category to allow those uses. Ms. Kester acknowledged that they would need to change the zoning code to allow museums in more waterfront zones consistent with the shoreline master program.

Industrial Development - It was noted that industrial development will also need a zoning code amendment as there is a problem with the definition.

Marinas, boating and joint use shared moorage –

Moorage Facilities Individual – Ms. Guernsey asked where the permission for mooring buoys in the urban conservancy came from and Ms. Ninen said it came from the consultant. Ms. Kester noted that on page 7-17 it talks about single family residences allowed a single mooring buoy in urban conservancy. Ms. Guernsey asked what about allowing a single family dock as she thought there were existing single family docks in the urban conservancy and thought the commission should make a conscious choice to allow or not. Mr. Katich thought there could be incentives offered for docks and floats if you did restoration. Mr. Pasin expressed frustration with putting conditions on the use of people's waterfront property. Mr. Katich directed everyone to page 5-8 where it described the purpose of the urban conservancy environment. Mr. Atkins said it would be his preference to allow residential piers and floats. Ms. Kester pointed out that the matrix should clarify that marinas relate to commercial and moorage facilities are residential. **She suggested that it say moorage facilities single family residential on page 2 and that marinas, boating and joint use/shared moorage say non residential/non single family residential and everyone agreed. It was decided that moorage facilities single family residential would not be allowed in the natural environment and permitted in urban conservancy, low intensity, city waterfront and marine deepwater. It was then decided that marinas, boating & joint use shared moorage non single family residential would not be permitted in natural and urban conservancy and permitted in low intensity, city waterfront and marine deepwater and the page reference would change to 7-19.**

Carole Holmaas mentioned to the commission that it appears that some state agencies are going to be asking for people to put in a buoy in addition to a dock if it's going to ground. She noted that the current proposal under the master program stipulates that if someone has a dock they can't have a buoy and that would conflict. Mr. Atkins asked if they should change their language. Ms. VanZwalenburg recommended that the commission keep this issue in the back of their minds until Fish and Wildlife has made a decision.

Discussion was held on joint use and shared moorage and Ms. Kester suggested that staff develop a better organization of the rows and their relationship to the regulations. Everyone agreed.

No comments on net sheds, parking, permanent solid waste or railroads.

Recreation – Mr. Coughlin asked for clarification of he had a kayak would he be able to put in at Austin Estuary Park and everyone agreed that it was a passive use. **It was decided that there needed to be a definition of passive use.**

The chair called a recess at 6:05 and reconvened the meeting at 6:15 p.m.

Ms. Kester stated that staff would come back with a proposed definition for passive recreation use and perhaps use the one from the parks plan.

Mr. Pasin suggested that “residential developments” just say “residential development”. Everyone agreed.

Mr. Fisher asked about the conditional use for residential development in the natural environment and Ms. VanZwalenburg pointed out that it is required under the guidelines. Mr. Fisher then asked for Ms. VanZwalenburg to explain what it meant that it was required. She said that it is a state regulation that residential development in the natural environment is a conditional use. Mr. Fisher said he had measured properties using Google and found about ten properties that would fall within the 200 feet and Ms. VanZwalenburg pointed out that it would only apply to new development not existing development. She read the section from the guidelines applying to this topic. Ms. Guernsey asked if it would include a substantial remodel or addition and Ms. VanZwalenburg said she wasn't sure how that was being addressed. Mr. Fisher asked the commission if they wanted to address remodels in this section. Ms. Guernsey cautioned that it should be consistent with how we address remodels in other land use regulations and Ms. Kester went over those other regulations. Ms. Kester recommended that the regulations be consistent and when appropriate be placed in the nonconforming section. Ms. Guernsey noted that in the county they have a certain percentage that if it is exceeded on a nonconforming structure you have to go to the Hearing Examiner and Ms. Kester noted that the city does not allow any expansion of a nonconforming structure. It was discussed as to whether new residential and additions/remodels should be in different sections. Ms. Kester suggested that a new dwelling would require a shoreline conditional use permit since the state requires it but an addition/remodel could be permitted, subject to some criteria if it is nonconforming. Mr. Katich also noted that he had seen in other jurisdictions requirements that the addition not be

any closer than the current home or a cap on the size of the addition. Ms. Ninen suggested breaking it into two categories for residential development and Mr. Coughlin said in addition to putting it in the matrix something needed to be in the regulations. Ms. Kester agreed that staff would have to add something in the regulations. **It was agreed that there needed to be a P for remodels and additions and C for new in the natural designation with staff adding some additional language in the regulations for how much you can alter and expand a nonconforming structure.** Ms. VanZwalenburg noted that some jurisdictions had gone with an administrative shoreline conditional use process for residential development.

Mr. Atkins wanted to discuss recreation and noted that in the guidelines it stated that non water oriented recreation was not allowed in the natural designation and in the matrix it was listed as permitted as long as they were low intensity passive uses. **It was decided to add an X for non water oriented recreation in the natural designation of recreation, noting that it might not be needed once a definition is written of passive use.**

Mr. Pasin asked if everyone agreed with the allowance of signs in all the designations. Discussion continued on this issue and it was agreed that it was enough that they were regulated by the sign code.

Mr. Atkins noted that ecology had a concern with the utilities section. Ms. Kester noted that accessory uses were not addressed and Ms. Guernsey noted that it was in the definition. Ms. Kester used the example that if the city was doing an upgrade to a roadway and wanted to put in streetlight it would need a shoreline conditional use. Ms. VanZwalenburg suggested that the accessory uses be permitted if they are accessory to a permitted use. **It was decided to eliminate aboveground facilities as a conditional use in the low intensity and city waterfront along with allowing accessory utilities to a primary/permitted uses in the natural designation.** Mr. Pasin asked what if the power company needs to upgrade a facility in the shoreline. Ms. Kester said if it was in the natural or urban conservancy it would need a conditional use permit, noting that there were nuances as it was an intensity of use issue.

Mr. Atkins stated that they hadn't really talked about agriculture and agriculture market stands such as the farmers market and the produce stand in Purdy. Ms. VanZwalenburg noted that the definition of agriculture comes out of the statute so you can't really change it but you can say that it doesn't apply to farmer's market or produce stands.

Mr. Katich stated that the consultant has created a new appendix A that addresses off site mitigation provisions and he needs comments from the commission by July 12th on the new appendix a, appendix c and the restoration plan, noting that we need to provide ecology with the draft restoration plan by August 1st.

Mr. Atkins noted that when he read the inventory he noted that it said that the department of health had closed the bay permanently in 2008 for shellfish harvesting and the restoration plan doesn't address this at all and he felt that this was a significant issue. He said he had called the department of health and they said that the issues were the outfall and marinas. Mr. Atkins felt that it should be a goal of the plan to remove that restriction. Mr. Katich said that the restoration

plan was more focused on providing habitat. Ms. VanZwalenburg said that the restoration plan does not need to be this narrow and could address some specific things such as water quality. Ms. Ninen noted that in existing plans and programs on page 9 could have a section added to address this issue. Mr. Coughlin expressed that he would like to see more of an overall vision in the document, i.e. what are we restoring.

Chapter 4 Shorelines of Statewide Significance

No comments, policy language is right out of the state statute.

Chapter 1 – Introduction

Ms. Ninen noted that ecology had commented on page 1-5 and 1-6. Ms. VanZwalenburg noted that there was an incorrect citation on 1-5, WAC 173-18 is the wrong citation and she didn't really think the reference was necessary. **It was decided to remove the last sentence of 1.7 shoreline jurisdiction.**

Mr. Atkins commented that on page 1-4 section 1.5 Relationship to other plans and regulations, in the last sentence he felt that ecology guidelines should be removed. **It was decided that the last sentence should read “The specific provisions of GHMC Title 17 and/or 16 shall apply when not specifically addressed by the master Program’s development regulations”.**

Ms. Ninen noted the ecology had a comment on page 1-6 regarding the last bullet item. Ms. VanZwalenburg felt that the statement was misleading. **Ms. Kester suggested that staff reword it to be more specific and to address whether or not the city wants to invoke the optional provisions for buffers of critical areas. Ms. Kester did not believe that they wanted to invoke that option.**

Mr. Coughlin asked about item 1.2 Governing Principles number 2 where it talks about diverse means and what are non-structural programs and Ms. Kester said perhaps something like education.

Mr. Atkins asked what liberal construction meant in 1.8. Ms. VanZwalenburg said it was in the statute but it means that whatever is allowed needs to be consistent with the policy. She further explained that you need to broadly construe so that something doesn't occur where something in the regulations may allow for something contrary to the goals.

It was decided to start with Chapter 3 at the next meeting on this issue on September 2nd.

Ms. Kester noted that she will bring comprehensive plan issues to them on July 15th. She went over the schedule and everyone's attendance noting that Mr. Atkins and Mr. Pasin would not be in attendance. July 29th Ms. Guernsey, Mr. Coughlin and Ms. Ninen will not be in attendance so she asked that everyone else attend. Mr. Coughlin said he was likely to be gone on August 5th and Mr. Fisher wasn't sure. Ms. Kester noted that August 5th was the public hearing not so it was crucial that we have a quorum. She noted that Mr. Atkins was gone on August 19th. It was

also pointed out that elections for chair and vice chair will need to be accomplished on July 29th. Ms. Kester reminded everyone that they were continuing to meet at 4pm and we will need to confirm that we are having the hearing at 6pm. She then noted that on the 29th they will be making a site visit.

Move adjourn at 7:47 Guernsey/Atkins – Motion carried.

Summary of 7/1/10 Meeting Outcomes:

1. Revise 6.8.2.3.c consistent with GHMC 18.08.080.B.2 (Wetlands Administration) to state:

“Notice of Title. The owner of any property containing an ecological restoration project approved in conjunction with a development proposal, or as an independent project, shall file for record with the Pierce County Auditor a notice approved by the department in a form substantially as set forth below. Such notice shall provide notice in the public record of the presence of an ecological restoration project on the subject property, the application of the city’s Shoreline Master Program to the property, and that limitations on actions in or affecting such ecological restoration project may exist. The notice shall be notarized and shall be recorded prior to approval of any development proposal for such site. The notice shall run with the land and shall be in the following form:

Ecological Restoration Project:

Legal Description:

Present Owner: _____

NOTICE: This property contains an ecological restoration project as identified on the attached project plans. Restrictions exist on the use or alteration of the ecological restoration project. Contact the City of Gig Harbor Planning Department for additional information on the restrictions prior to commencing any activity within this area.

Date Signature Owner

2. Matrix-Shoreline Modifications: revise to allow dredging for shoreline restoration in both the natural and low intensity environmental designations. Also, revise fill and excavation (upland areas) from prohibited to “not applicable” in the marine deepwater designation.
3. Matrix-Shoreline Uses: Revise the one row dedicated to “Commercial Fishing” into two rows; one dedicated to “Commercial Fishing Moorage” and the other to

“Commercial Fishing Sales & Services”. Fishing moorage would be allowed as a permitted use in all but the natural and urban conservancy designations and fishing sales and services would be a permitted use in the city waterfront and deepwater designations, but prohibited in the remaining designations. Also revise “Marinas, Boating & Joint Use/Shared Moorage” on Page #1 of the matrix to “Marinas, Boating & Joint Use/Shared non-residential & non-single family residential, and prohibit the use in the natural and urban conservancy environments and permit it in the low intensity, city waterfront and marine deepwater designations. Also, revise “Moorage Facilities, Individual (piers, docks, floats, lifts, and buoys) to “Moorage Facilities-Single-Family Residential (piers, docks, floats, lifts, and buoys),” and prohibit the use in the natural environment and allow it as a permitted use in all others. Also, revise the “Residential Developments” use category to “Residential Development”, and add remodels and additions as a permitted use and new development as a conditional use in the natural environment. (Staff will review this approach for consistency with the Nonconforming use/structure requirements of GHMC 17.68 and develop regulatory language as necessary so the master program and the zoning code provisions are consistent with each other. Lastly, with regard to utilities, revise to allow above ground utilities as a permitted use in the low intensity and city waterfront designations and allow accessory utilities to a primary/permitted use as a permitted use activity in the natural designation.

4. Revise Chapter 1, Section 1.7 (Shoreline Jurisdiction) by deleting last sentence of paragraph on page no. 1-5.
5. Revise Section 1.5 to state: “The specific provisions of GHMC Titles 16 and 17 shall apply when not specifically addressed by the Master Program’s development regulations.”

Holding Pen:

18. Section 6.8.2.3-Restoration Incentives

19. Section 6.8.2.4-Permitting & regulations?